

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

JULIE A. GROTE,

Plaintiff,

v.

DAVID R. MEAD, et al.,

Defendants.

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Case No. 17-CV-0942-FJG

ORDER

On December 4, 2017, the Court ordered defendants to show cause in writing on or before December 12, 2017 why this case should not be remanded to state court. In particular, the Court noted that defendant David R. Mead is a citizen of the state of Missouri, and, when a case is removed based on diversity, the “forum defendant rule” provides that the case “may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” 28 U.S.C. § 1441(b)(2). In the Eighth Circuit, “the violation of the forum defendant rule is a jurisdictional defect and ‘not a mere procedural irregularity capable of being waived.’ ” Horton v. Conklin, 431 F.3d 602, 605 (8th Cir. 2005) (quoting Hurt v. Dow Chemical Company, 963 F.2d 1142, 1146 (8th Cir. 1992)).

In response to the Order to Show Cause, defendant argues that the Eighth Circuit has incorrectly decided Horton and Hurt, and that the majority of circuits to address the issue have held that the forum defendant rule is procedural, not jurisdictional. Defendant spends seven pages arguing that this Court should turn to out-of-circuit precedent to decide this case, and requests a hearing on this matter. This

Court does not need a hearing to decide this matter at all; instead, the law in the Eighth Circuit is clear, and governs what this Court must do.

Accordingly, this matter is **REMANDED** for lack of jurisdiction to the Circuit Court of Cass County, Missouri.

IT IS SO ORDERED.

Date: December 14, 2017
Kansas City, Missouri

/S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
United States District Judge